Minutes of the 104th meeting of the Board of the EHRC

30 June 2022 (09:00-12:15)
Virtual

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Attending

Commissioners
Baroness Kishwer Falkner (Chairwoman); Caroline Waters (Deputy Chair); Akua Reindorf; Alasdair Henderson; David Goodhart; Eryl Besse; Helen Mahy; Jessica Butcher; Dr Lesley Sawers and Su-Mei Thompson.

Officers
Marcial Boo, Chief Executive Officer
Cath Denholm, Chief Operating Officer (items 1-8)
Melanie Field, Chief Strategy and Policy Officer
Ben Coates, Chief of Staff
Adam Sowerbutts, Chief Legal Officer (item 7)
Bill Malloy, Director, Planning, Performance and Governance (item 8)
Hermione McEwen, Principal, Advisory and Litigation (item 7)
Luke Taylor, Director Strategy, Evidence and Three Nations (Item 9)
Moya Alcock, Director Communications (item 9-10)
Ruth Latusek, Senior Associate, Governance Lead
Sarah Whelan, Principal, Corporate Governance

Guests
Charles Ramsden, Government Equalities Office (GEO)

Observing:
Anu Samaraweera, Intern, Corporate Governance

1. Chairwoman's welcome and apologies.

1.1 The Chairwoman welcomed attendees. There were no apologies.

2. Declarations of interest

2.1 Akua Reindorf advised a family member is a senior social worker and so she will recuse herself from the discussion on a secure training centre as part of the CEO report.

Action: Akua Reindorf to update her declaration of interests form.

3. Minutes of the 103rd Board meeting (EHRC 104.01)

3.1 Helen Mahy requested an amendment to point 104.01/5.3, regarding the delegation to sign off the Annual Report and Accounts.

3.2 The Board approved the minutes of the meeting of 26 May as an accurate record, subject to the requested amendment.

4. Actions arising (EHRC 104.02)

4.1 The Board noted the action log. Updates were received on the Commission's budget and recruitment of three new Commissioners. The Board were advised that the recruitment process would include appointing one or more Commissioners as Deputy Chair, and to register expressions of interest with the Cabinet Office by 22 July.

5. Committee / Commissioner Working Group (CWG) updates

5.1 The Scotland Commissioner advised that the Scotland Committee met on 13 June to focus on new governance arrangements and updating the Committee's Terms of Reference. This will form part of a paper to the July Board meeting.

5.2 The Wales Commissioner advised that the Wales Committee had concluded recruiting new members and recommendations for appointments will be brought to the July Board meeting.

5.3 The Chair of the Commissioner Working Group on Human Rights Monitoring advised that the working group met on 16 June and discussed possible changes to the Commission's Human Rights Tracker methodology. A paper will be brought to the July Board meeting. She also advised that the Commission had submitted its National Human Rights Institution (NHRI) re-accreditation statement of compliance by the 1 June deadline. Finally, she noted the application deadline is approaching for our invitation to tender for a new civil society project in respect of the UK and Welsh Governments' compliance with the International Covenant on Economic, Social and Cultural Rights. The Executive assured Commissioners that risk control measures have been built into the tendering process.

5.4 The Chair of the Commissioner Working Group on Is Britain Fairer? advised that the Commission's Data and Evidence Strategy will be brought to the July Board meeting, which will include a discussion on changing the name of the report, currently titled 'Is Britain Fairer?', due for publication in 2023.

Action: Governance Team to add review of Scotland and Wales Committees, Wales Committee recruitment, Human Rights Tracker, and Data and Evidence Strategy to the July Board agenda.

5.5 The Chair of the People and Workspace (P&WC) Committee advised that the Committee had met on 24 June and discussed staff attrition; time to hire; staff survey results; and the Commission's Environmental, Social and Governance (ESG) statement. The ESG statement will be brought to the Board for review.

She also advised that Commissioners Eryl Besse and Akua Reindorf will join the Committee.

Action: Governance Team to add the ESG statement to the Board Forward Schedule.
Action: Governance team to update P&WC Committee membership details and commence induction for new members.

5.6 Commissioners enquired about the forthcoming event with disability stakeholders on 12 July. Executives confirmed planning is well underway, and offered to share plans and the list of accepted invitees.

6. CEO Report & Chairwoman's update (EHRC 104.03, incl. appendices)

6.1 Commissioners noted the report.

6.2 Commissioners agreed the Commission should take regulatory action in respect of a secure training centre. The Chief Executive will liaise with the Chairwoman and Commissioners ahead of the next Board meeting on the proposed approach, and seek approval for any substantive actions.

Action: Governance Team to add secure training centre update to CEO report at July Board.

6.3 The Board approved the revised P&WC Terms of Reference.

Action: Governance team to update the Commission's Governance manual and website.

6.4 Commissioners discussed ethnicity and gender pay gap reporting and challenges for organisations. The Executive confirmed that further work to understand the impact of gender pay gap reporting will be taken forward this business year; and evidence from the UK Government's review will help inform this.

6.5 Commissioners noted the range of work taking place on Health and Social Care, and highlighted the importance of meeting the needs of disabled people and carers, and to communicate that these groups are important to the Commission.

6.6 Commissioners enquired about the QC advice received on the cross border implications of the Gender Recognition Act in Scotland and the operation of the Equality Act across the UK. The Chairwoman noted this is a matter of significance to the Board given the level of risk and timing of Scotland passing the Bill.

Action: Executive team to share outcome of QC advice with the Chairwoman and Commissioners.

6.7 The Chairwoman updated the Board on her trip to Rwanda to formally hand over chairship of the Commonwealth Forum of National Human Rights Institutions. She noted how valuable the trip was to the UK and the Commission, and demonstrated how our record on human rights is well-regarded by the representatives of the 27 Commonwealth NHRIs that attended.

7. Annual Report and Accounts (EHRC 104.04 plus annexes)

7.1 Commissioners approved the Commission's Annual Report and Accounts (ARA) 2021-22, subject to a number of textual amendments, and noted the ARAC Annual report.

7.2 Commissioners agreed to delegate authority for final approval of the ARA to the Chairwoman and Chief Executive, on advice of the Chair of ARAC.

Action: Director of Finance to take forward agreed amendments to the ARA, and provide to the Chairwoman and Chief Executive for final sign off.

7.3 Commissioners made the following observations and suggestions:

a) to consider the Commission's policy on staff time in the office and how to improve attendance;
b) to consider the Commission's procedure on booking Commissioners' travel and accommodation to ensure a correct and consistent approach to reporting that in the annual report;
c) to review the presentation of the ARA for next year, to utilise the publication as a brochure for the Commission in addition to fulfilling its statutory purposes.

Action: Director of People to monitor and report on office attendance, and develop proposals to encourage attendance.

Action: Governance team to review Commissioner travel and accommodation procedure and claiming expenses.

7.4 The Board requested that all future papers have numbered paragraphs, for ease of discussion.

Action: Governance Team to ensure all future Board papers have numbered paragraphs.

8. Strategic priorities discussion 2:

8.1 Strategic priority: Ensuring an effective legal framework (EHRC 104.05 & 104.05a)

8.1.1 Commissioners noted the paper and provided the following observations regarding monitoring the Public Sector Equality Duty (PSED) compliance;

a) to review the recommendations from the 2019 Women and Equalities Committee report on enforcing the Equality Act and using the Commission's powers;
b) to recognise that some organisations treat PSED as a tick-box exercise and that the Commission needed to ensure that the PSED led to change;
c) to learn lessons from monitoring PSED in Scotland and Wales; and
d) to consider international comparisons.

8.1.2 The Scotland Commissioner advised on the significant divergence in relevant policy between the UK and Scottish Governments, including on the Bill of Rights, Gender Recognition Act reform, Scotland-specific PSED duties, and the recent announcement on a new independence referendum. The Chairwoman advised she will be having an introductory meeting with the new Chair of the Scottish Human Rights Commission, and that the Scotland Commissioner should join the meeting, if free.

Action: Private Office to arrange meeting with Chairwoman and Scotland Commissioner ahead of Chairwoman's meeting with new SHRC Chair.

8.1.3 Commissioners noted the overlapping areas of work and that no contradictory positions should be adopted across the Commission's programmes of work. The Executive assured the Board of the measures in place to achieve cross-cutting understanding between programmes and functions.

8.1.4 Commissioners enquired whether activities were analysed by cost and impact to demonstrate the Commission's effectiveness. The Executive confirmed that this information is captured and reviewed.

Action: Director of Finance to ensure cost vs impact analysis is included in Business plan 2022-23 review at October Board.

8.2 Strategic priority: Equality for children and young people (EHRC 104.06 & 104.06a)

8.2.1 The Executive noted that the description of the first workstream has changed from the published Business Plan to reflect conversations with Ofqual. This will be amended in the published Plan at the next opportunity.

8.2.2 Commissioners noted the paper and made the following observations:

a) to review evidence on school exclusions, and the separate education for special education needs (SEN) children;
b) to consider home-schooling trends by economic status and protected characteristics, such as religion or belief and gender reassignment;
c) to note, when engaging with the Department for Education on issues relating to gender reassignment, that the proposed guidance should not make assumptions; and that the Welsh Government has also said they will issue trans guidance for schools.

9. Introduction of Director of Communications and overview of Communications and Stakeholder Strategy (EHRC 104.07 & 104.07a)

9.1 Commissioners noted the paper with interest. They supported the new Director of Communications with taking it forward.

9.2 Commissioners enquired about the Commission's Stakeholder Strategy. The Executive advised that this be brought to the Board after the summer.

Action: Governance team to add Communications update and Stakeholder Engagement Strategy to Board Forward Schedule.

9.3 Commissioners were reassured that a review of the Communications function was underway to ensure it is sufficiently resourced to deliver the Commission's strategy and business plan.

9.4 Commissioners were reassured that the website project will be finished by the end of 2022, and this will include translating the website into Welsh.

10. Any other business.

10.1 The Chairwoman noted she has been invited to a conference on freedom of religion or belief run by the Foreign Office in London on 5-6 July. Noting its focus on human rights, the Chairwoman offered to invite interested Commissioners.

10.2 The Chairwoman advised that the next Board meeting would be held in person in London on 27 July. She also noted the following face-to-face Board meeting will be held in Manchester on 18 and 19 October.

10.3 The Chairwoman advised that a race roundtable for Commissioners is being organised, and details will be confirmed shortly.

Action: Governance team to confirm race roundtable date/time with Commissioners.